

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

JOHN CRUZ,

Case No. 3:21-cv-00542-AC

Plaintiff,

FINDINGS AND RECOMMENDATION

v.

AMTRAK – NATIONAL RAILROAD  
PASSENGER CORPORATION,

Defendant.

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ACOSTA, Magistrate Judge:

Plaintiff John Cruz, appearing *pro se*, filed his Complaint on April 12, 2021. (ECF No. 1.) On September 2, 2021, the court entered an Order to Show Cause detailing that Plaintiff had not filed proof of service of summons and the complaint, and that a review of the docket did not reflect that waivers of service of summons have been requested or obtained. (ECF No. 10.) The court also instructed Plaintiff to respond in writing by September 24, 2021, and show whether good cause exists to dismiss for failure to timely serve defendant and resulting lack of prosecution of this action. The court also informed Plaintiff that failure to respond to the Order to Show Cause

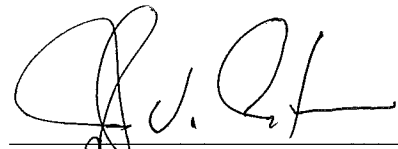
by that date would result in dismissal of the unserved defendant. A review of this file discloses that to date, Plaintiff has not taken any action since filing the Complaint, has not responded to the court's Order to Show Cause, and that service of summons and complaint upon defendant has not been made. Therefore, pursuant to Local Rule 41-2(a), the court concludes Plaintiff has failed to comply with the Court's order and has failed to diligently prosecute this action. Accordingly, the court recommends that this action be DISMISSED without prejudice.

*Scheduling Order*

These Findings and Recommendations will be referred to a district judge. Objections, if any, are due within fourteen (14) days. If no objections are filed, then the Findings and Recommendations will go under advisement on that date.

If objections are filed, then a response is due within fourteen (14) days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendations will go under advisement.

DATED this 1<sup>st</sup> day of October, 2021.

  
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JOHN V. ACOSTA  
United States Magistrate Judge